



6712-01

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 52

[AU Docket No. 19-101; WC Docket No. 17-192; CC Docket No. 95-155; FCC 19-41]

Auction of Toll Free Numbers in the 833 Code; Comment Sought on Competitive Bidding

Procedures

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; proposed auction procedures.

SUMMARY: In this document, the Commission proposes and seeks comment on competitive bidding procedures to be used for the auction of certain toll free numbers in the 833 code (833 Auction).

DATES: Comments are due on or before June 3, 2019, and reply comments are due on or before June 10, 2019.

ADDRESSES: Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (May 1, 1998). All filings in response to the 833 Auction Comment Public Notice must refer to AU Docket No. 19-101; WC Docket No. 17-192; CC Docket No. 95-155. The Commission strongly encourages interested parties to file comments electronically and requests that an additional copy of all comments and reply comments be submitted electronically to the following email address:

833auction@fcc.gov.

Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <https://www.fcc.gov/ecfs/>. Filers should follow the instructions provided on the website for submitting comments. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket number, AU Docket No. 19-101; WC Docket No. 17-192; CC Docket No. 95-155.

Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit

two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. S.W., Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.

Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.

U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: For auction legal questions, Scott Mackoul in the Auctions Division of the Office of Economics and Analytics at (202) 418-0660. For toll free number questions, Matthew Collins in the Wireline Competition Bureau's Competition Policy Division at (202) 418-7141.

SUPPLEMENTARY INFORMATION: This is a summary of the Public Notice (833 Auction Comment Public Notice), AU Docket No. 19-101, WC Docket No. 17-192; CC Docket No. 95-155, FCC 19-41, adopted on May 9, 2019 and released on May 10, 2019. The complete text of the 833 Auction Comment Public Notice is available for public inspection and copying from 8:00 a.m. to 4:30 p.m. Eastern Time (ET) Monday through Thursday or from 8:00 a.m. to 11:30 a.m. ET on Fridays in the FCC Reference Information Center, 445 12th Street SW, Room CY-A257, Washington, DC 20554. The complete text is also available on the Commission's website at <https://www.fcc.gov/wireline-competition/competition-policy-division/numbering-resources/833-toll-free-number-auction> or by using the search function for AU Docket No. 19-101 on the Commission's ECFS web page at www.fcc.gov/ecfs/. Alternative formats are available to persons with disabilities by sending an email to

FCC504@fcc.gov or by calling the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY). Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated in the 833 Auction Comment Public Notice in AU Docket No. 19-101.

I. INTRODUCTION

1. With the 833 Auction Comment Public Notice, the Commission takes another step toward modernizing the way it distributes toll free numbers. Specifically, the Commission initiates the pre-bidding process for the auction of certain toll free numbers in the 833 code (833 Auction). The 833 Auction will make available over 17,000 numbers in the 833 code for which there have been multiple competing requests. This auction will serve as an experiment in using competitive bidding as a way to assign toll free numbers equitably and efficiently.

II. BACKGROUND

2. While toll free numbers have been assigned on a first-come, first serve basis traditionally, the Commission modified its toll free assignment rule last year to provide greater flexibility and permit alternative approaches to assigning numbers. Specifically, in the Toll Free Assignment Modernization Order, 83 FR 53377, October 23, 2018, the Commission added competitive bidding as a method to assign toll free numbers and, as an experiment in using this approach, established the 833 Auction to assign numbers that were requested by two or more Responsible Organizations ("RespOrgs") during the 833 pre-code opening process. The Commission also opened participation in the 833 Auction to not only RespOrgs but also potential subscribers who may wish to participate directly.

3. In establishing this experiment in the Toll Free Assignment Modernization Order, the Commission set out the general framework for the 833 Auction and designated Somos, Inc., the Toll Free Numbering Administrator, as the auctioneer. The Toll Free Assignment Modernization Order also called for a pre-bidding process during which the Commission would seek comment on detailed auction procedures, as is typical in Commission auctions. With the 833 Auction Comment Public Notice, the

Commission initiates the pre-bidding process.

4. After receiving comments, the Commission will release a public notice establishing the final application and bidding procedures for the 833 Auction (833 Auction Procedures Public Notice), including the dates and deadlines by which potential bidders must meet the requirements necessary to qualify to bid. Somos will then be required to implement the established procedures to conduct the auction, including: accepting applications to participate in the bidding; accepting upfront payments; determining which applicants are qualified to bid; accepting and processing the bids; announcing the winning bidders; and accepting final payments. After the 833 Auction is complete, the Commission will use the information from the auction to determine how to proceed with assigning future toll free numbers.

III. 833 AUCTION OVERVIEW

A. Numbers to be Auctioned

5. In the 833 pre-code opening process, Somos identified 17,638 numbers as mutually exclusive (i.e., requested by two or more RespOrgs). A complete list of these 17,638 numbers is available at www.somos.auction.com. These numbers will be offered in the 833 Auction, with one exception. Specifically, the Commission in the Toll Free Assignment Modernization Order allowed government entities and non-profit health and safety organizations the ability to file a petition to set aside a previously identified mutually exclusive 833 number. On April 16, 2019, the Wireline Competition Bureau released a Public Notice seeking petitions to set aside toll free numbers for public health and safety purposes. If a petition is granted with respect to a particular number, that number will be assigned to the petitioner and unavailable in the 833 Auction.

B. Overview of Participation in the 833 Auction

6. Because the Commission recognizes that many parties interested in acquiring one or more of the identified 833 toll free numbers may not be familiar with participating in its auctions, the Commission provides an overview of the process.

7. In addition to establishing the final auction procedures for the 833 Auction, the 833 Auction Procedures Public Notice will also announce the dates during which interested parties may submit their auction applications online to Somos. In the auction application, an interested party will be required to provide certain information, make certifications, and select the numbers from the available pool on which they are interested in bidding. Once Somos reviews the applications, it will announce the list of complete and incomplete applications. For applications deemed incomplete, applicants will be afforded a second filing (i.e., resubmission) window to make minor modifications to their auction applications. Applications to which major modifications are made after the deadline for submitting applications will be denied. Major modifications include, but are not limited to: any changes in the ownership of the applicant that constitute an assignment or change of control of the applicant; changes to any certifications required in the application; or changes to the toll free numbers selected in the application or to the parties for which an applicant is bidding.

8. All interested parties will also need to submit an upfront payment, the amount of which will determine the number of 833 numbers they can bid on during the auction. Following the resubmission filing window and the submission of upfront payments, Somos will announce the list of qualified bidders (based on the list of complete applications and sufficient upfront payments).

9. The 833 Auction will consist of a single round of bidding. Bidders will upload their bid information online through the Somos bidding system. After completion of the single round, Somos will announce the winning bidders for each number and establish the deadline for making final payments. Any winning bidder that is not a RespOrg must then work with a RespOrg after the auction to reserve the number in the Service Management System Database (Toll Free Database) in accordance with the Commission's rules.

C. Further Educational Opportunities for Potential Bidders

10. Because the Commission expects that the 833 Auction will attract parties that have never participated in a Commission auction, it directs Somos to provide additional information on the application and bidding systems. This information should include, but is not limited to, demonstrations

and other educational and hands-on practice opportunities that potential bidders can use to familiarize themselves with the application and bidding systems. For example, for recent spectrum license and universal service support auctions, the Commission has released an online tutorial that serves to help applicants understand auction application filing procedures. Are there any other specific types of educational and hands-on practice opportunities that potential bidders in this context would find helpful?

IV. PROPOSED IMPLEMENTATION OF 833 AUCTION PRINCIPLES

11. In the Toll Free Assignment Modernization Order, the Commission established certain principles to (1) promote the transparency and efficiency of the 833 Auction, and (2) reduce the instances of conflicts of interest and the likelihood of anticompetitive strategic behavior by participants. The Commission seeks comment on specific procedures to implement these principles.

A. Participation Through Single Applicant and Application

12. In the Toll Free Assignment Modernization Order, the Commission decided it would allow potential subscribers the option to participate directly in the 833 Auction or indirectly through a RespOrg. The Commission also required that potential subscribers participate in the 833 Auction through only a single auction applicant (i.e., either on its own behalf or through a RespOrg). The Commission further held that a potential subscriber may not engage multiple applicants to bid on its behalf.

13. To enforce these mandates and to help prevent possible collusion, the Commission proposes that a potential subscriber can participate in the 833 Auction either (1) through a RespOrg that will bid on all the numbers in which the subscriber is interested in acquiring, or (2) by submitting its own application and bidding for all the numbers in which it is interested. Thus, a potential subscriber could not selectively choose to be represented by a RespOrg for some numbers and submit an application on its own for other numbers. This proposed application restriction is consistent with the requirement that a potential subscriber may participate through only a single auction applicant and is necessary to prevent collusion among applicants. Additionally, the Commission proposes that the auction application require that each applicant certify that (1) if it is bidding on its own behalf, it is also not participating in the auction through another entity, and/or (2) if it is bidding on behalf of potential subscriber(s) that it is not

aware that the potential subscriber(s) are participating through another applicant. The Commission seeks comment on these proposals.

14. In the Toll Free Assignment Modernization Order, the Commission also prohibited a single party, or multiple parties with a controlling interest in common, from becoming qualified to bid in the 833 Auction based on multiple applications. Based on that restriction, the Commission proposes to require an applicant certify that it, or any commonly-controlled entity, is not submitting multiple applications in the 833 Auction.

15. The Toll Free Assignment Modernization Order also stated that, to define parties with common controlling interests in the pre-auction process, the Commission anticipates using definitions adopted for similar purposes in its spectrum auctions. The Commission believes this approach has the benefit of ample precedent and, therefore, it proposes to define a “controlling interest” for purposes of identifying commonly controlled entities in the 833 Auction as an individual or entity with positive or negative de jure or de facto control of the applicant. De jure control includes holding 50 percent or more of the voting stock of a corporation or holding a general partnership interest in a partnership. Ownership interests that are held indirectly by any party through one or more intervening corporations may be determined by successive multiplication of the ownership percentages for each link in the vertical ownership chain and application of the relevant attribution benchmark to the resulting product, except that if the ownership percentage for an interest in any link in the chain meets or exceeds 50 percent or represents actual control, it may be treated as if it were a 100 percent interest. De facto control is determined on a case-by-case basis. Examples of de facto control include constituting or appointing 50 percent or more of the board of directors or management committee; having authority to appoint, promote, demote, and fire senior executives that control the day-to-day activities of the entity; or playing an integral role in management decisions.

16. The Commission also seeks comment on a presumption that spouses own or control or have the power to control interests owned or controlled by either of them and a presumption that immediate family members own or control or have the power to control interests owned or controlled by

other immediate family members. In this context “immediate family member” would mean father, mother, husband, wife, son, daughter, brother, sister, father- or mother-in-law, son- or daughter-in-law, brother- or sister-in-law, step-father or -mother, step-brother or -sister, step-son or -daughter, half brother or sister. The Commission proposes to place the burden on applicants to sufficiently demonstrate that spouses or family members should not be treated as having an identity of interest such that it creates common control. The Commission proposes that where the presumption has not been adequately rebutted, such spouses and family members will be subject to the prohibition on submission of multiple auction applications by commonly controlled entities. The Commission seeks comment on these proposals.

17. In the Toll Free Assignment Modernization Order, the Commission indicated that any 833 Auction applicants that have overlapping non-controlling interests must take steps to prevent communicating bid information. Specifically, the Commission required applicants with overlapping non-controlling interests to certify they have established internal controls to preclude any person acting on behalf of an applicant from possessing information about the bids or bidding strategies of more than one applicant, or communicating such information to another person acting on behalf of and possessing such information regarding another applicant. Thus, the Commission plans to include such a certification in the auction application.

B. Prohibition on Certain Communications

18. In the Toll Free Assignment Modernization Order, the Commission stated that, for the 833 Auction, there should be a prohibition on certain communications similar to the prohibition that applies in the Commission’s spectrum license and universal service support auctions. Specifically, in those auctions, applicants are prohibited from communicating certain auction-related information to other applicants beginning on the auction application filing deadline and concluding upon a specific post-auction deadline for winning bidders (e.g., the down payment deadline or deadline to file long-form applications). This prohibition on certain communications is intended to reinforce existing antitrust laws, facilitate detection of collusive conduct, and deter anticompetitive behavior.

19. The Commission proposes that each applicant in the 833 Auction will be prohibited from cooperating or collaborating with any other applicant with respect to its own, or one another's, or any other competing applicant's bids or bidding strategies. Further, an applicant will be prohibited from communicating, with any other applicant in any manner, the substance of its own, or one another's, or any other competing applicant's bids or bidding strategies (including with respect to the post-auction market for toll free numbers). The proposed prohibition will begin at the deadline for submitting auction applications and will end at the post-auction deadline for winning bidders to submit their final payments (which will be announced by Somos after bidding concludes). The proposed prohibition will not apply to all communications between or among applicants; it would apply only to any communications conveying, in whole or part, directly or indirectly, the applicant's or a competing applicant's bids or bidding strategy (including with respect to the post-auction market for toll free numbers). The Commission seeks comment on these proposals.

20. Moreover, as the Commission does in spectrum license and universal service support auctions, it proposes to define "applicant" broadly for purposes of this prohibition. The Commission proposes that "applicant" for purposes of the prohibition on certain communications for the 833 Auction includes: all controlling interests in the entity submitting the auction application; all holders of partnership and other ownership interests and any stock interest amounting to 10% or more of the entity, or outstanding stock, or outstanding voting stock of the entity submitting the auction application; all officers and directors of that entity; and any entity listed as a potential subscriber on whose behalf the entity submitting the auction application will be bidding. The Commission seeks comment on this proposal.

21. Finally, to implement the prohibition of certain communications, the Commission proposes to require an applicant that makes or receives a prohibited communication to report such communication to the Commission and Somos staff immediately, and in any case no later than five business days after the communication occurs. The Commission also proposes to rely to the extent

appropriate on past precedent and guidance regarding its rules on prohibited communications in connection with its spectrum auctions. The Commission seeks comment on these proposals.

C. Restrictions on Agreements

1. Agreements Among Applicants

22. The Commission proposes to prohibit certain agreements among applicants (whether the applicants are RespOrgs or potential subscribers) in the 833 Auction. The prohibition would apply to any agreements, arrangements, or understandings of any kind relating to the toll free numbers being auctioned to which the applicant, or any party that controls or is controlled by the applicant, is a party. This includes any agreements that address or communicate directly or indirectly bids (including specific prices), bidding strategies (including the specific numbers on which to bid or not to bid), or the post-auction market for toll free numbers. Similar to the Commission's proposed prohibition on certain communications, it proposes to define "applicant" for these purposes broadly. The Commission seeks comment on these proposals.

23. This proposed prohibition would not apply to agreements unrelated to the toll free numbers being offered in the 833 Auction. Business discussions and negotiations that are unrelated to bidding in the 833 Auction and that do not convey information about the numbers being auctioned or bidding strategies would not be prohibited. Moreover, not all auction-related information would be covered by the prohibition. For example, communicating merely whether a party has or has not applied to participate in the 833 Auction would not violate the proposed rule. In contrast, communicating how a party will participate, including specific numbers or bid amounts, would convey bid or bidding strategies and would be prohibited under the proposed rule.

2. Agreements Among RespOrgs

24. Given RespOrgs' dominant position in the toll free number market, the Commission proposes to prohibit certain auction-related agreements among RespOrgs even where only one of the RespOrgs is an applicant in the 833 Auction. Thus, an applicant RespOrg would be prohibited from having an agreement related to the toll free numbers being offered in the 833 Auction with a non-

applicant RespOrg. Similar to the proposed prohibition on agreements among applicants, this proposed prohibition between applicant RespOrgs and non-applicant RespOrgs would not apply to agreements unrelated to the toll free numbers being offered in the 833 Auction. Thus, business discussions and negotiations that are unrelated to bidding in the 833 Auction and that do not convey information about the numbers being auctioned or bidding strategies would not be prohibited.

25. This proposed prohibition would not apply to RespOrgs that are commonly controlled. Commonly-controlled entities are those in which the same individual or entity either directly or indirectly holds a controlling interest (as determined by positive or negative de jure or de facto control). When RespOrgs share a common officer or director or control, the Commission presumes that bids and bid strategies will be communicated. Moreover, the Toll Free Assignment Modernization Order stated that commonly controlled RespOrgs cannot submit multiple applications to participate in the 833 Auction. Instead, the commonly controlled RespOrgs would need to choose one of the entities to be the applicant and disclose the existence of the other commonly controlled RespOrgs in the application. The Commission seeks comment on these proposals.

3. Agreements Between RespOrgs and Potential Subscribers

26. The Toll Free Assignment Modernization Order allowed potential subscribers to participate directly in the 833 Auction or indirectly through a RespOrg. Given the unique position of RespOrgs participating on their own behalf or bidding on behalf of other entities, the Commission proposes to require any applicant RespOrg that bids for a potential subscriber to acquire a letter of authorization from the potential subscriber. Somos, as the Toll Free Numbering Administrator, currently requires RespOrgs to present similar letters of authorization when a subscriber changes RespOrgs. The Commission proposes that the letter of authorization to represent the subscriber in the 833 Auction should be substantially the same—i.e., identifies the parties and toll free number(s), and includes a signed and dated authorization. The Commission seeks comment on this proposal and on whether to require the applicant RespOrg to provide the letter of authorization as part of its auction application (e.g., to upload it

as an attachment) or to simply allow the applicant RespOrg to certify that it is in possession of the letter and be able to produce it to the Commission if requested.

D. Responsibility for Winning Bid Payment

27. The Commission emphasizes that any RespOrg that applies to participate in the 833 Auction, including a RespOrg participating on behalf of one or more potential subscribers, assumes a binding obligation to pay its full winning bid amount, and is responsible for complying with all post-auction requirements, regardless of whether a potential subscriber on whose behalf the RespOrg bid fulfills its financial or contractual obligation to the RespOrg. While an applicant RespOrg may seek reimbursement from the potential subscriber for which it bid, the RespOrg—as the bidder in the auction—is ultimately responsible for full payment of any winning bid.

V. PROPOSED APPLICATION REQUIREMENTS

A. Applicant Identification

28. Any party interested in obtaining an 833 number available through the auction must submit an auction application to become qualified to bid in the 833 Auction. The Commission proposes that, as a first step in the application process, an interested party must acquire an “Auction ID” from Somos, which will verify the potential applicant’s identity. Moreover, the Commission proposes that any entity that cannot be verified through the Somos verification process must then participate through a RespOrg (i.e., the RespOrg will bid on its behalf and will be responsible for making final payment on any winning bids). The Commission seeks comment on these proposals.

B. Auction Application Requirements

29. In the Toll Free Assignment Modernization Order, the Commission established general principles governing the information that must be provided in the auction application. The Commission now seeks comment on specific application requirements consistent with the principles of (1) promoting the transparency and efficiency of the auction, and (2) reducing the instances of conflicts of interest and the likelihood of undesirable and/or anticompetitive strategic behavior by participants.

1. 833 Auction Number Selection

30. The Commission proposes that an applicant in the 833 Auction must identify, in its auction application, each toll free number (from the list of available 833 numbers) on which it may wish to place a bid during the auction, and the party for which it is bidding for each number. If qualified to bid in the auction, the entity will not be obligated to place a bid on each of the numbers selected in its application, but an entity will not be able to bid on any numbers that it does not select in its application. If a particular available toll free number is not selected on any auction application, it will not be available in the auction. The Commission further proposes that any changes made to the numbers selected on an application will be considered a major modification of the application, which will result in a dismissal of the application. The Commission seeks comment on these proposals. The Commission also notes that there is no limit to how many numbers for which an entity can place a bid. Given that there are over 17,000 possible numbers, are there any special considerations that the Commission (or Somos) should account for in the item and entity selection process?

31. In addition, in the Toll Free Assignment Modernization Order, the Commission stated that each auction participant will be required to certify, as applicable, that it is not bidding on behalf of multiple interested parties (including itself) for the same toll free numbers or that each interested party is bidding through one entity for a given number. To implement this prohibition, the Commission stated that it expects that an applicant will need to disclose each party on whose behalf it is bidding, for each toll free number that it selects. Requiring an applicant to identify the party for which it is bidding will allow Somos to verify that a potential subscriber is seeking to bid based on only one application and will make it clear to applicants that they can represent only one entity per number. Thus, the Commission proposes that, for each number on which an applicant wishes to be able to bid, it must identify the party (either itself or another entity) for which it is bidding. The Commission also proposes that any changes made on an application regarding the disclosure of the party for which an applicant is bidding will be considered a major modification of the application, which will result in application dismissal. The Commission seeks comment on these proposals.

32. Moreover, the Commission proposes that, while the 833 numbers selected by an applicant will not be made public until after the bidding is complete, the party for which an applicant is bidding will be made public once Somos announces which applications are complete or incomplete (i.e., when most auction application information typically becomes public in a Commission auction). The Commission seeks comment on this proposal.

2. Ownership Disclosure / Identity of Applicant

33. In the Toll Free Assignment Modernization Order, the Commission stated that it expected that any entity wishing to participate in the 833 Auction would have to fully disclose information regarding the real party or parties-in-interest in the applicant or application and the ownership structure of the applicant, including both direct and indirect ownership interests of 10% or more. Requiring applicants' ownership information provides several benefits. First, it promotes auction transparency by providing insight—to the Commission, Somos, other bidders, and the public—into the entities participating in the auction. Second, it provides information to help bidders comply with the prohibition on certain communications. Third, it provides information to the Commission and Somos to enforce the restrictions against multiple applications, including prohibiting commonly-controlled entities from submitting separate applications.

34. The Commission proposes to require applicants in the 833 Auction to provide the same level of ownership disclosure required in Commission spectrum auctions—namely, section 1.2112(a) of the Commission's rules. Specifically, the Commission proposes that applicants in the 833 Auction must disclose: (1) the real party or parties in interest of the applicant or of the application; (2) any direct interest holder of 10% or greater; (3) any indirect interest holder of 10% or greater; and (4) any FCC-regulated entity or applicant for an FCC license in which the applicant, or any direct interest holder of 10% or greater, owns 10% or more stock, whether voting or non-voting. The Commission seeks comment on this proposal.

3. Agreement Disclosure / Letters of Authorization

35. To the extent that an applicant may be a party to a permitted auction-related agreement, the Commission proposes that an applicant must disclose the agreement on its auction application. Specifically, the Commission proposes that an applicant must disclose any agreement related to the numbers being auctioned, including the names of the parties to the agreement(s).

36. In Commission spectrum license and universal service support auctions, where certain agreements are allowed, the applicant must disclose certain limited information about the agreements in their pre-auction short-form applications (e.g., the parties to the agreement and a brief summary of the agreements), while winning bidders often may be required to provide more detailed information about the agreements in their post-auction long-form applications. Since there will be no long-form application following the 833 Auction, the Commission seek comment on whether the limited information normally provided in the short-form application (i.e., names of the parties to the agreement and a brief description of the agreement) is sufficient for the 833 Auction.

4. Additional Disclosures and Certifications

37. The Commission stated in the Toll Free Assignment Modernization Order that it would also require applicants in the 833 Auction to provide additional information and make additional certifications in the application, as may be found in the pre-auction process to be necessary to implement the Commission's decisions in that order. Based on this, the Commission proposes to require each to certify that it is not currently in default or delinquent on a non-tax debt to the Federal government, as is the Commission's practice in its spectrum auctions, in order to preserve the integrity of the auction process and to ensure that bidders are capable of meeting their financial commitments. Under this proposal, the applicant's status as a current defaulter will be determined as of the auction application deadline. The Commission seeks comment on this proposal, and also encourages prospective applicants to pay any delinquent debts prior to the auction application deadline. After the deadline, an applicant can dispute the status of the debt, but consistent with the Commission's practice in spectrum auctions,

applicants will not be able to cure the default or delinquency after the auction application deadline to participate in the auction.

38. The Commission also asks if there are other certifications that it should consider requiring auction applicants to make in order to become qualified to bid in the 833 Auction? Are there any legal restrictions that may be relevant in the 833 Auction, as in Commission spectrum auctions, limiting participation based on a prior bar against participating in such an auction?

VI. PROPOSED BIDDING PROCEDURES

A. Auction Design: Single Round, Vickery Auction

39. The Commission decided in the Toll Free Assignment Modernization Order that the 833 Auction will be conducted as a single round, sealed-bid auction, in which bidders submit their bids for individual numbers simultaneously, with the winning bid for each number determined solely by bids for that number, independent of the bids for any other number. Moreover, the Commission also chose to use a Vickery auction, in which the amount paid by the winning bidder is determined by the second-highest bid. Therefore, in the 833 Auction, the winning bidder for each 833 number will be the bidder with the highest bid and will pay the second-highest bid amount for that number.

40. In the event that a toll free number receives only one bid, the Commission proposes that the toll free number will be awarded to the bidder placing the sole bid. Consistent with a Vickery auction, the Commission further proposes that the bidder in that case would acquire the right to use the number and not be required to pay anything because there was no second-highest bid. The Commission seeks comment on this proposal.

41. In the event that a toll free number receives two or more tied amounts for the highest bid, the Commission proposes that the winning bidder will be determined by use of a pseudo-random number. The Commission proposes that Somos assign the pseudo-random number to each bid for each toll free number submitted to the 833 Auction. Moreover, because the Commission required the 833 Auction to be a Vickery auction where the winning bidder pays the second highest bid (i.e., the value that the second highest bidder attached to the toll free number), it proposes that, in the case of tied bids, the winning

bidder would still pay the second highest bid, which would be the same amount as its placed bid. The Commission seeks comment on this proposal.

B. Limited Information Procedures During the Auction Process

42. Consistent with the procedures in many recent Commission auctions, the Commission proposes that Somos conduct the 833 Auction using procedures for limited information disclosure (sometimes also referred to as anonymous bidding). The Commission proposes that Somos withhold, until after the close of bidding and announcement of auction results, the public release of bidders' particular 833 number selections and any information that may reveal the identities of bidders placing bids and taking other bidding-related actions. More specifically, the Commission proposes to not make public until after bidding has closed: (1) the numbers that an applicant selects for bidding in its auction application, (2) the amount of any upfront payment made by or on behalf of an applicant for the 833 Auction, (3) any applicant's bidding eligibility, and (4) any other bidding-related information that might reveal the identity of the bidder placing a bid. Once Somos has performed an initial review of the auction applications and announced which are complete or incomplete, the Commission proposes that Somos will make public the information contained in the application except the toll free numbers that an applicant selects for bidding. This includes the names of any potential subscribers for which an applicant RespOrg is bidding.

43. Because the 833 Auction will be conducted using a single round of bidding, the Commission does not anticipate that there will be the same need for release of bidding-related actions during the auction that there would be in a multiple-round auction. If such circumstances were to arise prior to the release of non-public information and auction results, however, the Commission's proposal would mean that it would not indicate the identity of any bidders taking such actions. After the close of bidding, bidders' number selections, upfront payment amounts, bids, and any other bidding-related actions and information will be made publicly available. The Commission seek comment on these proposals.

C. Auction Structure

1. Bidding Format and Period

44. The Commission expects Somos to conduct the auction online. The single-round format will consist of one bidding round, which will occur on one day. While the Commission expects the bidding round to be open for several hours, it proposes that Somos, in consultation with the Commission, will announce the actual start and finish time of the bidding round at least one week before the start of the auction. This approach should provide certainty to the bidders, while providing Somos with flexibility. The Commission seeks comment on this proposal.

2. Information Relating to Auction Delay, Suspension, or Cancellation

45. For the 833 Auction, the Commission proposes that, by public notice or by announcement during the auction, the Commission, or Somos in consultation with the Commission, may delay or suspend the auction in the event of a natural disaster, technical failures, administrative or weather necessity, evidence of an auction security breach or unlawful bidding activity, or for any other reason that affects the fair and efficient conduct of competitive bidding. In such cases, Somos would seek guidance from the Commission about resuming, rescheduling, or canceling the auction in its entirety. If the bidding is delayed or suspended, the Commission may direct Somos to resume the auction starting from the beginning of the scheduled bidding round or for a shorter period, or cancel the auction in its entirety. The Commission will exercise this authority solely at its discretion. It seeks comment on this proposal.

D. Bidding Procedures

1. Upfront Payment and Bidder Eligibility

46. The Commission proposes that potential bidders must provide an upfront payment of \$100 per number to participate in the 833 Auction. Upfront payments help ensure that only serious qualified bidders participate in an auction and provide a source of available funds in the event a penalty must be assessed for an auction default. In the Toll Free Assignment Modernization Order, the Commission chose to require upfront payments in the 833 Auction but deferred to the pre-auction process

what the upfront payments should be, though it stated that it generally expected the approach to be modeled on those used in the Commission's spectrum auctions.

47. In determining the amount of upfront payment required in spectrum license auctions, the Commission has balanced "the goal of encouraging bidders to submit serious, qualified bids with the desire to simplify the bidding process and minimize implementation costs that will be imposed on bidders." At this point, the Commission has little information about the value of the toll free numbers being auctioned—in fact, one of the goals of the 833 Auction is to help inform the Commission on the value of the available toll free numbers. Moreover, the Commission does not wish to discourage participation of sincere bidders. Therefore, it proposes to require an upfront payment of \$100 per number. Such an amount should begin to cover the costs of auctioning the numbers in the event a bidder defaults and, thus, best achieve the Commission's goals in requiring an upfront payment while burdening bidders the least. The Commission seeks comment on its proposal, and on any other alternative upfront payment amounts or proposals.

48. Applicants for the 833 Auction will need to submit an upfront payment sufficient to be able to bid on the total number of toll free numbers for which they wish to submit bids. Thus, an applicant may select on its auction application more of the available 833 numbers than the total for which it expects to submit bids, but its actual bidding will be limited by the amount of its upfront payment. For example, if an applicant were to select 50 numbers on its application but submits an upfront payment of only \$1,000, it would be able to place bids on only 10 numbers (based on the proposed upfront payment of \$100 per number).

49. Moreover, given that some participants in the 833 Auction may not be familiar with auctions generally, the Commission emphasizes that, if a winning bid is less than the bidder's upfront payment, any remaining amount will be refunded to the bidder, minus any default payments that a bidder might owe. Similarly, if a bidder does not have any winning bids, it will be reimbursed the entirety of its upfront payment.

50. Additionally, for applicant RespOrgs who are bidding on behalf of potential subscribers, the Commission proposes that all funds that a RespOrg submits as an upfront payment in the auction (regardless of whether the funds came from the RespOrg or a potential subscriber for which the RespOrg is bidding) will be considered the upfront payment of the RespOrg applicant and will be used to offset the final payment obligation for any winning bids of the RespOrg, regardless of which 833 numbers the RespOrg wins. It would be the responsibility of a RespOrg and potential subscriber for which it will bid to work out their financial arrangements. From the perspective of the auction, however, all upfront payments submitted by an applicant RespOrg would be considered to be payments by the applicant RespOrg and will be applied to offset the final payment obligations for all toll free numbers that the RespOrg wins. The Commission seeks comment on this proposal.

51. The Commission also proposes to require upfront payments of a certain amount be made via wire transfer. Specifically, any upfront payment above \$300 must be made through a wire transfer to Somos (or its payment designee). The Commission proposes that any amounts under this threshold (i.e., \$300 or less) can be made using an alternative payment collection process, such as Automated Clearing House (ACH). Such a process may be easier for individuals or small entities that may be interested in only a few toll free numbers. The Commission proposes to specifically exclude payments via check or credit card, as such payment processes have increased risks associated with them, which may not be conducive to a timely auction. The Commission seeks comment on this proposal and alternative thresholds.

2. Bid Amounts

52. The Commission proposes to allow bids only in whole dollar amounts. It seek scomment on this proposal.

E. Auction Default Payments

53. Each bid is a binding commitment. If a bidder fails to make full payment on its bid or otherwise defaults for any reason, it should be subject to a default payment. The Commission explained in the Toll Free Assignment Modernization Order that it generally expected the approach to default

payments in the 833 Auction to be modeled on those used in the Commission's spectrum auctions. In spectrum auctions, any winning bidder that defaults or is disqualified after the close of an auction is liable for a default payment that consists of a deficiency payment and an additional payment. The deficiency payment is generally equal to the difference between the amount of the defaulted bid and the amount of the winning bid in a subsequent auction. The additional payment is a percentage of the defaulter's bid or of the subsequent winning bid, whichever is less. The additional payment percentage is established by the Commission in advance of the auction and is generally between 3% and 20% of the applicable bid. Since the 833 Auction is an experiment, the Commission has not yet decided if there will be a subsequent auction of toll free numbers. Therefore, it proposes that the default payment in the 833 Auction will not include a deficiency payment, but rather will be based only on a percentage of the defaulted bid. Because there will be no deficiency payment, the Commission proposes to set the default payment requirement in the 833 Auction at a higher percentage of the defaulted bid than the additional payments it requires for defaults in its spectrum auctions. The Commission believes that a higher percentage will adequately compensate for the absence of a deficiency payment and sufficiently discourage insincere bidding and default. Accordingly, the Commission proposes that the default payment should be 35% of the defaulted bid amount. The Commission seeks comment on this proposal, and any alternatives.

VII. POST AUCTION CONSIDERATIONS

A. Final Payments

54. Shortly after the single round of bidding for the 833 Auction is complete, Somos will announce the winning bidders through a public notice. The Commission proposes that each winning bidder must submit the full payment for its winning bid(s) within 10 business days following release of the public notice announcing the winning bidders. Similar to the final payment procedures in its spectrum auctions, the Commission also proposes to allow a winning bidder to make its final payment within five additional business days after the applicable deadline, provided it also pays a late fee of 5% of the winning bid. The Commission proposes that, if a winning bidder misses the final payment deadline and also fails to remit the required payment (plus the applicable late fee) by the end of the late payment

period, it would be declared in default and subject to the applicable default payment. The Commission seeks comment on this proposal.

55. Similar to its proposal for upfront payments, the Commission proposes to require final payments of a certain amount be made via wire transfer. Specifically, any final payment above \$300 must be made through a wire transfer to Somos (or its payment designee). The Commission proposes that any amounts under this threshold (i.e., \$300 or less) can be made using an alternative payment collection process, such as ACH. Such a process may be easier for individuals or small entities that may be interested in only a few toll free numbers. The Commission proposes to specifically exclude payments via check or credit card, as such payment processes have increased risks associated with them, which may not be conducive to a timely auction. The Commission seeks comment on this proposal and alternative thresholds.

B. Reserving Toll Free Numbers

56. The Toll Free Assignment Modernization Order required any potential subscriber that directly participates in the 833 Auction and is a winning bidder to work with a RespOrg after the auction to reserve a number in the Toll Free Database in accordance with section 52.101 of the Commission's rules. The Commission proposes that, under such circumstances, the potential subscriber must declare which RespOrg it plans to use within 15 business days after the public notice announcing the winning bidders. The Commission further proposes that subscribers may report any problems working with RespOrgs after the auction to Somos, which will hold the number while these issues are resolved. The Commission proposes to entertain waivers of the 15 business day deadline, consistent with its existing waiver standard, where a subscriber's late declaration was due to no fault of its own. The Commission seeks comment on these proposals.

C. Secondary Market Considerations

57. In the Toll Free Assignment Modernization Order, the Commission adopted an exception to the rules prohibiting the brokering, hoarding, and warehousing of toll free numbers for numbers acquired in an auction. Consistent with the goal of the 833 Auction—assigning toll free numbers to those

who can put them to their best use—the Commission adopted this exception to promote the development of a secondary market for numbers assigned via competitive bidding. In order to evaluate the operation of this new secondary market, the Toll Free Assignment Modernization Order directed Somos “to maintain data on secondary market transactions and make that data available to the Commission.”

58. The Toll Free Assignment Modernization Order established that the data collected include “the new subscriber’s name and contact information, and other limited information Somos deems necessary.” To further the Commission’s evaluation of the secondary market, it proposes that Somos collect additional limited information beyond that identified in the Toll Free Assignment Modernization Order. Specifically, the Commission proposes that Somos collect the following information: (a) contact information of both parties to the transaction, including (i) name, (ii) address, (iii) email address, and (iv) phone number; (b) sale price; and (c) sale date. This information should allow the Commission to fully evaluate the operation of the secondary market, including the demand for the right to use toll free numbers, the value parties place on the right to use toll free numbers, and how frequently transactions occur on the secondary market. The Commission seeks comment on this proposal.

59. The Toll Free Assignment Modernization Order also established that RespOrgs are obligated to provide information to Somos to facilitate the collection of data about secondary market transactions. To incentivize RespOrgs to provide this information promptly, the Commission proposes that RespOrgs must submit all required data about post-auction secondary market transactions involving their subscribers to Somos within 60 days of the transaction. The Commission proposes that this requirement be included in Somos’s tariff and that, like other violations of RespOrg requirements in the tariff, noncompliance be penalized by discontinuing access to the Toll Free Database until the required data is reported. The Commission believes that 60 days from the date of a transaction is a reasonable amount of time for a RespOrg to discover and report transaction data to Somos. Even if a subscriber does not inform a RespOrg of a transaction, 60 days provides a RespOrg with two monthly billing cycles during which it should be aware of a subscriber change. And if a RespOrg discovers a transaction but the subscriber does not provide it with information about the transaction, the Commission proposes allowing

the RespOrg to withhold service from the subscriber until it receives the necessary information. The Commission also believes that the penalty of discontinued access to the Toll Free Database—until the required data is reported—appropriately balances its dual goals of incentivizing compliance while not discouraging RespOrgs who fail to report transaction data from correcting a good faith oversight. The Commission seeks comment on this proposal.

VIII. PROCEDURAL MATTERS

A. Supplemental Initial Regulatory Flexibility Analysis

60. As required by the Regulatory Flexibility Act of 1980 (RFA), the Commission has prepared a Supplemental Initial Regulatory Flexibility Analysis (Supplemental IRFA) of the possible significant economic impact on small entities of the policies and rules addressed in 833 Auction Comment Public Notice to supplement the Commission's Initial and Final Regulatory Flexibility Analyses completed in the Toll Free Assignment Modernization Order pursuant to which the 833 Auction will be conducted. Written public comments are requested on the Supplemental IRFA. Comments must be identified as responses to the Supplemental IRFA and must be filed by the same deadline for comments on the proposals in the Public Notice. The Commission will send a copy of the Public Notice, including the Supplemental IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the Public Notice and Supplemental IRFA (or summaries thereof) will be published in the Federal Register.

61. Need for, and Objectives of, the Proposed Rules. To further the goal of an efficient, fair and orderly allocation of toll free numbers to all potential subscribers, including small entities, the Commission added competitive bidding as a method to assign toll free numbers and established the 833 Auction as an experiment in that approach. The Public Notice seeks comment on proposed procedural rules to govern the 833 Auction. The process is intended to provide notice of, and adequate time for, potential applicants to comment on proposed auction procedures. An efficient and fair administration of the competitive bidding process will benefit all 833 Auction participants, including small entities. To that end, the Commission seeks comment on the following proposed procedures: (1) allow potential

subscribers to participate in the 833 Auction either through a RespOrg that will bid on all the numbers in which the subscriber is interested in acquiring, or by submitting its own application and bidding for all the numbers in which it is interested; (2) require each applicant in the 833 Auction to certify that (i) if it is bidding on its own behalf, it is also not participating in the auction through another entity and/or, if it is bidding on behalf of potential subscribers that it is not aware that the potential subscriber(s) are participating through another applicant; and (ii) it, or any commonly-controlled entity, is not submitting multiple applications in the 833 Auction, utilizing the Commission's definitions for control adopted for similar purposes in its spectrum auctions; (3) prohibit each applicant in the 833 Auction from cooperating or collaborating with any other applicant with respect to its own, or one another's, or any other competing applicant's bids or bidding strategies, and will be prohibited from communicating with any other applicant in any manner the substance of its own, or one another's, or any other competing applicant's bids or bidding strategies (including the post-auction market for toll free numbers); (4) prohibit certain agreements between applicants (whether the applicants are RespOrgs or potential subscribers) in the 833 Auction, and certain auction-related agreements among RespOrgs even where only one of the RespOrgs is an applicant in the 833 Auction; (5) require any applicant RespOrg that bids for a potential subscriber to acquire a letter of authorization from the potential subscriber; (6) require applicants to first acquire an "Auction ID" from Somos, which will verify the potential applicant's identity, and if any entity cannot be verified through the Somos verification process, it must then participate through a RespOrg; (7) require each applicant, on its auction application, (i) identify each number on which it wishes to be able to bid and, for each number, the party (either itself or another entity) for which it is bidding, (ii) provide the same level of ownership disclosure required in Commission auctions, (iii) disclose any auction-related agreement, and (iv) certify that it is not currently in default or delinquent on a non-tax debt to the Federal government; (8) for determining the winning bidder on tied bids for a toll free number, use a pseudo-random number assigned to each bid; and for an only bid received for a toll free number, assign the sole bidder the number and require no payment; (9) conduct the 833 Auction using procedures for limited information disclosure; (10) require potential bidders provide an upfront payment of \$100 per number,

and treat all funds that a RespOrg submits as an upfront payment in the auction (regardless of whether the funds came from the RespOrg or a potential subscriber for which the RespOrg is bidding) as the upfront payment of the RespOrg that will be used to offset the final payment obligation for any winning bids of the RespOrg; (11) default payment of 35% of the defaulted bid; (12) full payment within 10 business days following release of the public notice of the winning bids, or full payment plus a 5% late fee, within five additional business days; (13) require any potential subscriber that directly participates in the 833 Auction and is a winning bidder to declare its intent to work with a specific RespOrg within 15 business days following release of the public notice of winning bids; and (14) require Somos to collect additional information on secondary markets and require RespOrgs submit all required data about post-auction secondary market transactions within 60 days of a transaction.

62. Legal Basis. The Commission has a statutory obligation under section 251(e)(1) of the Communications Act of 1934, as amended (the Act), “to ensure that toll free numbers, which are a scarce and valuable national public resource, are allocated in an equitable and orderly manner that serves the public interest.” Pursuant to this statutory mandate, the Commission has the “authority to set policy with respect to all facets of numbering administration in the United States,” and a “require[ment] . . . to ensure the efficient, fair, and orderly allocation of toll free numbers.” The proposed auction procedures and secondary market proposals in the Public Notice further the statutory requirement that numbers be made “available on an equitable basis”—an auction and secondary market are both efficient and orderly, and fair. These actions benefit all auction participants and toll free number subscribers, including small entities. In addition, the proposed requirements for Somos to follow as the auctioneer for 833 numbers are supported under the Commission’s obligation in section 251(e)(1) to ensure its Toll Free Numbering Administrator administers “telecommunications numbering and to make such numbers available on an equitable basis,” and section 201(b)’s authorization for the Commission to “prescribe such rules and regulations as may be necessary in the public interest to carry out the provisions of this [Act].” These actions will help ensure an efficient and orderly, and fair, assignment of toll free numbers.

63. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply. The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules and policies, if adopted. The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.” In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act. A “small business concern” is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

64. In the FRFA incorporated into the Toll Free Assignment Modernization Order, the Commission described in detail the small entities that might be significantly affected. In the Public Notice, the Commission incorporates by reference the descriptions and estimates of the number of small entities from the previous FRFA in the Toll Free Assignment Modernization Order in WC Docket No. 17-192.

65. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities. The Commission designed the auction application process itself to minimize reporting and compliance requirements for applicants, including small business applicants. Parties desiring to participate in the 833 Auction must file an application in which they certify under penalty of perjury as to their qualifications. Eligibility to participate in bidding is based on an applicant’s auction application and certifications, as well as its upfront payment. The Commission decided in the Toll Free Assignment Modernization Order that it will not require applicants to submit a long-form application after the conclusion of the 833 Auction, given the lack of need to verify winning bidders’ qualifications in this context and to limit the administrative burden on bidders, including small business entities.

66. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered. The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): “(1) the establishment of differing compliance or reporting

requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.”

67. In the Toll Free Assignment Modernization Order, the Commission concluded that assigning toll free numbers through competitive bidding will benefit smaller entities, particularly when compared with the prior first-come, first-served assignment methodology, which favored larger, more sophisticated entities that had invested in systems that provided enhanced connectivity to the Toll Free Database). Moreover, the Commission also elected to allow potential subscribers, many of which may be smaller entities, the choice between participating directly in the auction or indirectly through a RespOrg.

68. The Commission intends that the proposals of the Public Notice to facilitate participation in the 833 Auction will result in both operational and administrative cost savings for small entities and other auction participants. In light of the numerous resources that will be available from the Commission and Somos at no cost, the processes and procedures proposed for the 833 Auction in the Public Notice should result in minimal economic impact on small entities. For example, prior to the auction, small entities and other auction participants may seek clarification of or guidance on complying with competitive bidding rules and procedures, reporting requirements, and the bidding system. Small entities as well as other auction participants will be able to avail themselves of web-based, interactive online tutorials to familiarize themselves with auction procedures, filing requirements, bidding procedures, and other matters related to the 833 Auction and hotlines to assist with issues such as access to or navigation within the electronic auction application system. The Commission also makes copies of Commission decisions available to the public without charge, providing a low-cost mechanism for small businesses to conduct research prior to and throughout the auction. In addition, Somos will post public notices on its website will make this information easily accessible and without charge to benefit all 833 Auction applicants, including small businesses. These steps are made available to facilitate participation in the 833 Auction by all eligible bidders and may result in significant cost savings for small business entities

who utilize these alternatives. Moreover, the adoption of bidding procedures in advance of the auction is designed to ensure that the 833 Auction will be administered predictably and fairly for all participants, including small businesses.

69. The proposed procedures for the conduct of the 833 Auction constitute the more specific implementation of the competitive bidding rules contemplated by Part 1 of the Commission's rules and the underlying rulemaking orders, including the Toll Free Assignment Modernization Order and relevant competitive bidding orders, and are fully consistent therewith.

70. Federal Rules that May Duplicate, Overlap, or Conflict with the Proposed Rules. None.

B. Ex Parte Rules

71. This proceeding has been designated as a "permit-but-disclose" proceeding in accordance with the Commission's ex parte rules. Persons making oral ex parte presentations must file a copy of any written presentations or memoranda summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine Period applies). Persons making oral ex parte presentations are reminded that memoranda summarizing the presentations must (1) list all persons attending or otherwise participating in the meeting at which the ex parte presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda, or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to the Commission staff during ex parte meetings are deemed to be written ex parte presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written ex parte presentations and memoranda summarizing oral ex parte presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that

proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's ex parte rules.

Federal Communications Commission.

Marlene Dortch,

Secretary.

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